

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL COURTS
CIVIL CASE NO. 1571 OF 2001

FESTUS G. NDUNGU 1ST PLAINTIFF
ORIENG AFRIQUE LIMITED 2ND PLAINTIFF
VERSUS
NATIONAL BANK OF KENYA LIMITED DEFENDANT

RULING

This is an application for an injunction to restrain the defendant from selling the plaintiffs' property known as L.R. No. Mombasa/Block XXI/423 and 2274 (L.R. No. 784) Mweiga, Nyeri until the hearing and determination of this suit. The application is based on the following grounds:-

- 1. That the plaintiffs/applicants borrowed the sum of Kshs.7.5m in 1991 and the respondent is now demanding close to Kshs.45m which to the plaintiffs is oppressive;*
- 2. That all the while the plaintiffs fulfilled their part of the agreement by remitting Kshs.100,000/= per month as the agreed monthly instalment only for the defendant to hike this to Kshs.500,000/= per month without notice to the plaintiffs or consent thereof. and is supported by an affidavit sworn on 12.10.2001 by Festus George Ndungu. Mr. Ndungu makes only two complaints in his affidavit.*

These are that the defendant has unilaterally and without notice increased the monthly instalments from Kshs.100,000/= to Shs.500,000/= making it impossible for him to clear the arrears on his account and that if the properties aforesaid are sold, he will suffer irreparable loss. In my view, these two complaints do not constitute sufficient ground for granting an injunction and I would dismiss the application with costs.

Dated at Nairobi this 27th day of November, 2001.

T. MBALUTO
JUDGE